

1 Paul Morantz
2 A PROFESSIONAL CORPORATION
3 P.O. Box 511
4 Pacific Palisades CA 90272

(213) 459-4745

5 Attorney for Defendant
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10	HEBER JENTZSCH,)	CASE NO. NVC 14274
11)	
12	Plaintiff,)	
13)	
13	vs.)	OPPOSITION TO MOTION
14)	TO RECONSIDER
14	BENT CORYDON,)	
15)	NOVEMBER 30, 1988
15	Defendant.)	DEPT. 56
16	_____)	

17 I.
18 INTRODUCTION

19 1. This is a motion by Scientology to vacate a portion of
20 the court's ruling of November 9, 1988 wherein the court lifted
21 the sealing order as it relates to the herein file.

22 2. Preliminary, CCP 1008 allows an application for a
23 reconsideration "based upon an alleged different state of
24 facts...".

25 3. No new facts have been alleged.

26 4. Scientology further alleges specific orders ruling or
27 claims that supported its position.

28 5. This puts the herein party, Bent Corydon, at a specific
disadvantage. As the court has stayed the opening of the file,

1 Bent Corydon is not able to inspect the file to verify the
2 accuracy of the representations. At the very least, Bent Corydon
3 should have access to examine the file to prepare an opposition
4 to this motion, should the court grant the right to a hearing of
5 a motion to reconsider (as indicated below we do not believe that
6 CCP 1008 has been complied with).¹ In the papers filed for this
7 day, Scientology in paragraph two of the Points and Authorities
8 asserts that the court from the outset enjoined Armstrong from
9 copying or disseminating the documents. Scientology omitted that
10 Judge Breckenridge decision (attached to the original moving
11 papers) specifically revoked such orders. Given Scientology's
12 history of citing incomplete, or false records, it is imperative
13 that we have access to the court file to prepare the opposition.

14 6. Another example is found by comparing Scientology's
15 proposed order vs. the minute orders of 2-11-85 attached to the
16 herein moving papers. They simply do not match. Contrary to the
17 proposed order, the minute orders do not reflect a denial of Exh.
18 500-CCCCC.

19 7. The court further found that Exh. 500-5K was not within
20 any privilege and ordered it produced to the United States
21 Government. It appears that the court specifically found Exh.
22 500-5L, 500-50, 500-5P all not to be subject to any privilege,
23 the same having been waived. These documents were then given to
24 the United States Government. Yet Scientology's proposed order
25

26 ¹ In our reply to the opposition to the original motion we
27 pointed out that Scientology had misstated Judge Breckenridge's
28 findings, suggesting that the ruling had been against Armstrong
(when it had been in his favor), represented THE UNITED STATES v.
ZOLIN 809 F.2d 1411, upheld the sealing order, when in fact it
allowed documents to be discovered and the sealing order was not
even raised.

1 Corydon from seeking to meet the evidentiary burden in order to
2 get the tape into evidence in his litigation.

3 II.

4 CCP 1008 HAS NOT BEEN COMPLIED WITH

5 10. CCP 1008 allows reconsideration based upon new facts.

6 11. In essence, Scientology argued this position at the
7 initial hearing when the opportunity was there to do so. This
8 motion is not an argument of new facts, but is a more detailed
9 repetition of the initial argument.

10 III.

11 BENT CORYDON SHOULD HAVE OPPORTUNITY TO INSPECT
12 THE FILE PRIOR TO ANY ADVERSE RULING

13 12. Should the court consider granting any such relief, it
14 should only do so after Bent Corydon has been able to inspect the
15 balance of the file in order to present an opposition thereto.
16 Scientology has the benefit of setting forth what it contends
17 occurred without Mr. Corydon having equal access to the court
18 record in order to be able to present any evidence to the
19 contrary, should the same exist.

20 IV.

21 EACH COURT WHERE LITIGATION IS PENDING HAS THE RIGHT
22 TO DETERMINE ITS ADMISSABILITY OF EVIDENCE
23 CORYDON CAN MEET THE EVIDENTIARY BURDEN

24 13. As stated in the original motion, Bent Corydon is the
25 defendant in four Scientology-related lawsuits, three of which
26 are for defamation. The fourth seeks to remove property from Mr.
27 Corydon's current church claiming it really belongs to the Church
28 of Scientology. Mr. Corydon has a counter-claim for being the
victim of Scientology "fair game."

14. Should the court grant any relief as requested herein,
Mr. Corydon would be boxed in between one or more courts,

1 possibly with rules that will prevent his day in court.

2 15. As set forth in FORD v. SUPERIOR COURT 118 Cal.App.3d
3 737, another department of the Superior Court cannot overrule
4 another Superior Court Judge. As such, none of the other courts
5 where litigation is pending has the power to order any documents
6 in the herein case produced.

7 16. Therefore, unless this court allows Mr. Corydon to
8 obtain copies of said documents, he is not able to present it to
9 the court where his litigation is pending. At the same time, it
10 follows that this court cannot rule on the admissability of the
11 evidence in the other four cases. Each court, on its own, must
12 examine the issues of relevancy and privilege and determine
13 whether or not those documents are to be admissable.

14 17. Mr. Corydon cannot make his admissability arguments,
15 nor his arguments on the subject of privilege to this court, yet
16 if the documents are not unsealed he will not have them upon
17 which to make his request for admissability in the courts where
18 the litigation is pending.

19 18. Should the court consider granting any relief to
20 Scientology, then we request that the court have certified copies
21 of the documents transferred under seal to the clerk where
22 litigation is pending. Applications and hearings on the issues
23 of admissability and privilege can then be made before the courts
24 who have jurisdiction of the pending litigation.

25 19. Another reason for this request is to prevent the
26 disappearance of the evidence. The moving papers for this motion
27 state that pursuant to the settlement of this case many documents
28 were returned to Scientology. Thus, per the Declaration of Vicki

1 Anazeran attached to the November 9, 1988 moving papers, such
2 documents have now been destroyed pursuant to Scientology cover-
3 up orders. And only a subpoena from the IRS has so far prevented
4 certain documents from being returned to Scientology as of this
5 date. Should that barrier be removed, these documents, too,
6 would be lost to Bent Corydon even if he were to prevail on the
7 relevance and privilege issues.

8 20. We would request that copies be sent to the Clerk,
9 Department B, San Fernando Branch. There, two cases JENTZSCH v.
10 CORYDON NVC 14274 and CARMICHAEL v. CORYDON 189414 have been
11 assigned to Judge Bruce Sottile for all purposes pursuant to
12 judicial coordination. Another copy should be sent to the
13 Riverside Superior Court, re: Case Number 154129 and to the Clerk
14 for the Superior Court, for the District of Columbia in re:
15 CHURCH OF SCIENTOLOGY INTERNATIONAL v. CORYDON CA 8048-87.

16 21. The reporter's transcript of proceedings of Monday,
17 February 11, 1985, Exh. E to the motion for reconsideration,
18 quotes Judge Breckenridge (page 74) as believing under California
19 law attorney client privilege cannot be subject to the "crime-
20 fraud" exception based upon a document itself, but needs
21 independent evidence.

22 22. For this proposition of law Scientology cites DICKERSON
23 v. SUPERIOR COURT (1982) 135 Cal.App.3d 93 and NOWELL v.
24 SUPERIOR COURT 223 Cal.App.2d 652. In fact, neither case stands
25 for that proposition. Both cases stand for the proposition that
26 clients, including a corporation, who retains an attorney for
27 purposes of committing a crime or fraud waives any attorney-
28 client privilege. And as set forth in the attached declaration

1 of Gerald Armsrong concerning the MCCC tape it is clear that was
2 what was occuring. Neither Dickerson nor Nowell required
3 independant evidence, but rather stated a "prima facie" showing
4 of a fraudulent purpose must be made, in contrast to a mere
5 allegation. As stated in Dickerson:

6 "Thus, had a prima facie showing of fraudulent purpose been
7 made, the discovery order would have been proper. That real
8 parties in interest did not raise the issue before the Superior
9 Court..."

10 23. We believe that the motion filed for November 9, 1988,
11 presented such evidence.⁴ Attached to the November 9, 1988
12 motion is the Declaration of Vicki Aznaran who declared that she
13 has been involved with Scientology for fifteen years (paragraph
14 2). She actually became president of "Religious Technology
15 Center" and was one of the top authority figures within the
16 Church of Scientology (paragraph 3 and 8). She testified to
17 attending "many litigation meetings" and becoming aware of
18 Scientology's "dirty tricks and maneuvers." She further declared
19 that Scientology's practice was to use the legal system to abuse
20 and harass its enemies (paragraph 11). She testified that policy
21 was followed in every legal case (paragraph 11). She further
22 testified that documents ordered produced in the herein Armstrong
23 case were instead destroyed (paragraph 12). She testified this
24 practice continued in other litigation (paragraph 13-15).

25 24. More specifically, she testified that there was a
26 massive document destruction program undertaken to destroy any
27

28 ⁴ Again, the opportunity to challenge this motion was
available November 9, 1988 and these issues were addressed. New
facts are not being offered.

1 evidence showing L. Ron Hubbard controlled Scientology and to
2 impede the IRS investigation. This included concealing documents
3 from the IRS (paragraphs 16 and 23). Thus, we have established
4 an ongoing criminal conspiracy involving Scientology and its
5 lawyers to defraud the IRS. In essence, to have transferred
6 assets and monies of the Church of Scientology to the private
7 benefit of L. Ron Hubbard and cover up the same in order to
8 prevent the Church of Scientology from losing its tax-free
9 status.

10 25. Further, this issue has since been adjudicated and such
11 findings are ~~applicable here to the Church of Scientology on~~
12 grounds of collateral estoppel. Attached as Exh. A is the United
13 States' Tax Court decision in CHURCH OF SCIENTOLOGY CALIFORNIA v.
14 COMMISSIONER OF INTERNAL REVENUE. The court found that
15 Scientology, its agents and others "willfully and knowingly
16 conspired to defraud the United States by impairing, instructing
17 and defeating the lawful functions of the IRS in the
18 determination, assessment, and collection of income taxes due
19 from petitioners and from other Scientology organization and
20 officials (page 74)." The decision discusses cover ups and other
21 tactics, and specifically describes Scientology making fraudulent
22 representations, covert activities and the deliveries of monies
23 to the private benefit of L. Ron Hubbard. This decision was
24 affirmed on appeal, THE CHURCH OF SCIENTOLOGY CALIFORNIA v.
25 COMMISSIONER OF INTERNAL REVENUE (9th cir. 1987) 823 F.2d 1310,
26 where the court found Scientology was not being run for
27 exclusively religious purposes and that money went to the private
28 inurement of L. Ron Hubbard and others. See also SCIENTOLOGY v.

1 TAX COMMISSION 120 N.Y. Appellate Div. 376 and THE CHURCH OF
2 SCIENTOLOGY OF NEW YORK v. TAX COMMISSION 501 NYS 2d 863.

3 26. We also attach hereto as Exh. B a copy of a
4 supplemental affidavit of Gerald Armstrong filed in the United
5 States District Court for the District of Massachusetts in VAN
6 SCHEICK v. CHURCH OF SCIENTOLOGY, CALIFORNIA 79-2491-G. Herein,
7 Gerald Armstrong quotes the "MCCS" tapes that are subject of this
8 motion for reconsideration. A review of this document reveals
9 the MCCS tape reflects that a meeting was held for purposes of
10 continuing the ongoing crime-fraud described in the Aznaren
11 declaration. Therein it is described that the Scientology Board
12 of Directors really do not have authority because the Church is
13 bound by the authority of "LRH" (Hubbard).

14 27. After describing the ongoing methods of getting money
15 out of the Church of Scientology and "into the hands of L. Ron
16 Hubbard" Charles Parselle deputy guardian legal worldwide states:
17 "We could say that RRF and CSC are part of the same church, even
18 though they are corporately different. I mean if anything was a
19 sham corporation, it's RRF" (page 4).

20 28. Further Mr. Parselle states: "...but it is obviously
21 in the classic case of inurement if not fraud." At that point
22 Laurel Sullivan stated: "Well put." There was laughter and a
23 speaker stated: "It's all privileged." (page 5).

24 29. In addition to this showing, discovery efforts by Mr.
25 Corydon are liable to produce even greater evidence. Mr. Corydon
26 plans to take the depositions of several other participants in
27 the MCCS meeting.

28 30. Mr. Corydon established relevance at the initial motion

1 to unseal this file. But as to these specific tapes, the
2 relevance is even more clear. In the defamation actions,
3 Scientologists claim that Mr. Corydon has defamed them by
4 statements that Scientologists drill to lie. These tapes
5 establish that fact.

6 31. In the Riverside action, Scientology claims that a
7 Church building should be dedicated to Scientology religious
8 purposes. Whether or not Scientology is a true religion, or a
9 sham operating for the profit of money only is at issue.
10 Further, Mr. Corydon's cross-complaint alleges a cause of action
11 for fraud against the Church of Scientology for donations of
12 monies by Mr. Corydon based upon the representation that the
13 money was going to Scientology's religious purposes rather than
14 to the private inurement of L. Ron Hubbard. The tape proves Mr.
15 Corydon's case.

16 V.
17 CONCLUSION

18 32. In summary, this court should deny the motion for
19 reconsideration as it is not based upon new facts, but rather an
20 attempt at a more detailed argument.

21 33. Should the court allow reconsideration, the motion
22 should be denied because Bent Corydon has made a prima facie
23 showing of the "crime-fraud" exception to any alleged attorney-
24 client privilege.

25 34. If the court does not believe a sufficient showing has
26 been provided, this court should transfer certified copies under
27 seal to the various courts where litigation is pending between
28 Mr. Corydon so that each court can make its determination on
admissability. And this should only apply to the documents

1 denied to the United States, not to the ones listed in the
2 proposed order.

3 35. If the court should for any reason deny any relief to
4 Mr. Corydon, it should do so without prejudice and allow Mr.
5 Corydon to review the balance of the file and present any and
6 all further from any source relating to these issues.

7
8 Date: 11-28-58

Paul Morantz
9 PAUL MORANTZ
10 A PROFESSIONAL CORPORATION
11 Attorney for Defendant Corydon
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28